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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/415,632	10/12/1999	Suzanne P. Crane	10655.7700	5093
7590	05/19/2005		EXAMINER	
Howard I Sobelman Snell & Wilmer LLP One Arizona Center 400 East Van Buren Phoenix, AZ 85004-2202			POINVIL, FRANTZY	
			ART UNIT	PAPER NUMBER
			3628	
DATE MAILED: 05/19/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/415,632	CRANE ET AL.	
	Examiner	Art Unit	
	Frantzy Poinvil	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 March 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's amendment to claim 1 is acknowledged and the Examiner notes that the instant amendment does not further define the claims or bring the claims into patentable differences from the applied references.

Applicant's representative argues that Simpson does not disclose or suggest "accepting payment hierarchy rules to said investment funds" nor "distributing said investment funds to at least one investment product in accordance with said payment hierarchy rules" as recited in independent claims 1 and 6.

In response, Simpson clearly describes various types of methods to apply toward an investment product. See column 4, line 39 to column 5, line 24. In the different types of funding of the investment accounts, one of ordinary skill in the art recognizes that various types of rules would inherently apply and some of the rules would depend on certain conditions or other pre-established rules thus providing a set of hierarchy rules. Furthermore, Simpson is noted to list six different types of method of funding an investment or of providing an investment payment hierarchy. See column 4, line 39 to column 5, line 24 of Simpson. Moreover, the objective in the investment system is to minimize risks and maximize profit. Thus, establishing hierarchy rules and conditions is inherent in the system of Simpson.

Dependent claims 11 and 12 further remain to be rejected as stated in the prior office action.

As per the applicant's statement regarding the SEC, the Examiner's response is based on the analysis of the prior art whereby one of ordinary skill in the art would have found applicant's

invention to be obvious or where the prior art either teaches, suggests or inherently teaches or suggests applicant's claimed invention. Thus, applicant's statement regarding exemptions obtained from the SEC is not persuasive.

The prior Office action is repeated below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Simpson (US Patent No. 6,070,153).

As per claims 1 and 6, Simpson discloses a method and system for funding at least one investment product (see the abstract of Simpson) including:

a charge card billing system configured to capture financial event information (column 5, lines 25-30) wherein the billing system comprises a card account database configured to include user accounts (column 4, lines 28-37), a billing information database, a financial events database, a remittance database configured to include information about user remittances, wherein the combined remittance includes a portion of funds to satisfy debts related to the financial events and a portion of funds for investment. Applicant is directed to column 4, line 10 to column 5,

line 55). Simpson also discloses providing periodic statements related to previously established financial events. Note column 4, lines 42-44 and column 5, lines 31-54. Simpson further discloses a remittance database configured to include information about user combined remittances wherein the combined remittances include a portion of funds to satisfy debts related to the previously established financial events disclosed in the periodic statement and a portion of funds for investment. See column 5, lines 40-54. Simpson further teaches a payment hierarchy system for establishing rules for distributing the combined remittances to the previously established financial events and to an investment brokerage system (see column 4, line 45 to column 5, line 24).

Simpson also teaches an investment broker system in communication with the billing system (column 6, lines 19-37) wherein the investment broker system comprises:

- an investment instruction arrangement database configured to include user investment instruction information (column 4, lines 10-24);
- an investment account database configured to include multiple investment products (column 4, lines 19-24); and
- an investment payment hierarchy system for establishing rules for distributing funds to the at least one investment product (column 4, lines 10-24 and line 46 to column 5, line 24).

As per claims 2 and 7, Simpson discloses the investment products include at least one of a fixed annuity, variable annuity, CD, insurance, certificate, equity and mutual fund. See column 1, lines 45-53 and column 4, lines 19-24.

As per claims 3 and 8, Simpson discloses the billing system is configured to avoid a collection process upon remittance of sufficient financial event funds and insufficient investment funds. See column 2, lines 9-28.

As per claim 4, Simpson teaches that the investment products are pre-selected by cardholders. Note column 4, lines 10-24.

As per claims 5 and 10, Simpson discloses the billing system and the investment broker system are configured to be accessed via at least one of a telecommunications linkage, facsimile, Internet and a point of interaction device. See column 5, lines 37-55.

As per claim 9, Simpson discloses selecting the investment products prior to the remitting step.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson (US Patent No. 6,070,153) in view of Sandberg-Diment (US Patent No. 5,826,245).

The teachings of Simpson are discussed above. Simpson teaches a cardholder using a purchasing card having an account number for purchasing goods/services from a merchant and later receives a periodic statement which includes the purchase amount. See column 2, lines 52-55. Steps of authorizing the account number and purchase amount, providing an approval code

associated with the account number and the purchase amount to the merchant is not explicitly stated in Simpson. The Examiner asserts that these are well known steps taken when using a credit card to make a payment using a financial transaction card. Sandberg-Diment discloses a system and method whereby a cardholder performs a financial transaction using a financial card. An approval code is sent to a merchant who then uses the approval code when requesting a payment for the transaction for the purchase amount. Applicant is directed to column 3, lines 55-67.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Sandberg-Diment into the system of Simpson in order to discourage fraudulent transactions, thereby providing a more secure system.

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FP
May 3, 2005


FRANTZY POINVIL
PATENT EXAMINER
AU 3628